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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/818,717 03/14/97 WILSON

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EXAMINER

BATSON, V

ART UNIT	PAPER NUMBER
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3671

17

DATE MAILED:

06/28/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

**Office Action Summary**

Application No.

08/818,717

Applicant(s)

DAVID E. WILSON

Examiner

VICTOR BATSON

Group Art Unit

3671

 Responsive to communication(s) filed on Apr 29, 1999. This action is FINAL. Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

**Disposition of Claims** Claim(s) 1, 4-14, 17-29, and 32-43 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

 Claim(s) 1, 4-14, 17-29, and 32-41 is/are allowed. Claim(s) 42 and 43 is/are rejected. Claim(s) \_\_\_\_\_ is/are objected to. Claims \_\_\_\_\_ are subject to restriction or election requirement.**Application Papers** See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948. The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner. The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved. The specification is objected to by the Examiner. The oath or declaration is objected to by the Examiner.**Priority under 35 U.S.C. § 119** Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d). All  Some\*  None of the CERTIFIED copies of the priority documents have been received. received in Application No. (Series Code/Serial Number) \_\_\_\_\_. received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

 Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).**Attachment(s)** Notice of References Cited, PTO-892 Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_ Interview Summary, PTO-413 Notice of Draftsperson's Patent Drawing Review, PTO-948 Notice of Informal Patent Application, PTO-152**... SEE OFFICE ACTION ON THE FOLLOWING PAGES ...**

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. Claim 42 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 42 line 5, "the seed grain" lacks proper antecedent basis. The examiner suggests inserting "seed" before "grain" in line 4. In claim 42 line 9, "seed grain" lacks proper antecedent basis and should probably be changed to "the seed grain".

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 42 & 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamilton (4,411,325) in view of Woodle (5,199,518).

Hamilton discloses a device comprising a frame and hopper, with a support joined to opposed sides of the frame and to spaced apart locations of the hopper (each corner of the structure 10,

with weight sensing devices which sense a weight of seed grain in the hopper transferred through the support to the frame and provides a display 16 coupled to the output for displaying the sensed weight of the seed grain in the hopper. The examiner notes that in col 2 lines 54-61, Hamilton discloses that the support structure is a hopper that carries grain. Therefore, it would have been obvious to use the device of Hamilton with a grain drill since a grain drill is a device which includes a hopper attached to a frame that carries grain. Additionally, it is important in the planting art to determine how much grain is in the hopper of a grain drill, and when the grain drill hopper is empty or near empty. The device of Hamilton would provide such desired information.

Concerning claim 43 the claimed method steps would be obvious in modifying a grain drill as disclosed by Hamilton.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made, to modify the device of Hamilton by supporting the load cells on a support comprising a pair of weight bearing supports as taught by Woodle since such is a known load cell mounting configuration. It also would have been obvious to a person of ordinary skill in the art at the time the invention was made, to modify the device of Hamilton by using it with a grain drill since a grain drill is a device which inherently uses a frame mounted hopper, and Hamilton's device is

designed to be used with frame mounted hoppers as taught by Hamilton. Additionally, it would have been obvious to a person of ordinary skill in the art at the time the invention was made, to modify the device of Hamilton by using it with a grain drill so that the operator can determine when the hopper is empty or near empty.

***Allowable Subject Matter***

4. Claims 1, 4-14, 17-29, 32-41 are allowed.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The VonMuenster (5,902,966) patent appears to contain interfering subject matter in claim 1.

***Response to Arguments***

6. Applicant's arguments with respect to claims 42 & 43 have been considered but are moot in view of the new ground(s) of rejection.

***Interference***

7. The following allowable claim (similar to VonMuenster (5,902,966) claim 1) is suggested for the purpose of an interference:

"A grain drill scale for use with a grain drill having a frame mounted on ground engaging wheels and a seed tank containing seed, said seed tank supported on the frame and having corners, a front end and a back end joined by two sides at the corners, said scale comprising; longitudinally extending first mounting brackets respectively adapted to be secured beneath each side of the seed tank so as to extend continuously from the front end to the back end of the tank; a plurality of second mounting brackets, each respectively adapted to be secured beneath each of the corners of the seed tank and positioned on the frame supporting the seed tank; a plurality of load cells that suspend the seed tank above the frame, each of the load cells respectively being connected between one of the second mounting brackets and one end of a corresponding said first mounting bracket, each of the load cells being mounted so as to extend horizontally from a respective said second mounting bracket into said end of the corresponding first mounting bracket so that the entire weight of the seed tank is supported on the frame through the load cells; and a display operatively connected to the load cells so that the weight of the seed tank causing deflections in the load cells will be translated into measurable weights continuously displayed on the readout."

The suggested claim must be copied exactly, although other claims may be proposed under 37 CFR 1.605(a).

Applicant should make the suggested claim within ONE MONTH or THIRTY DAYS from the mailing date of this letter, whichever is longer. Failure to do so will be considered a disclaimer of the subject matter of this claim under the provisions of 37 CFR 1.605(a). THE PROVISIONS OF 37 CFR 1.136(a) DO NOT APPLY TO THIS TIME PERIOD.

Claims 42 & 43 are considered unpatentable over this suggested claim.

**Inquiries**

8. Any inquiry concerning this communication should be directed to Examiner Victor Batson whose telephone number is (703) 305-6356. The examiner can be normally reached Monday through Friday (except Wednesday) from 7:00 am to 5:00 pm, Eastern Standard Time.
9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will, can be reached on (703) 308-3870. The fax phone number for this Group is (703) 305-7687.

June 22, 1999

  
Victor Batson  
Primary Examiner  
Art Unit 3671